

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC: INTL – PLR-108529-07

Date:

October 03, 2007

Taxpayer =

Domestic Owner 1 =

Domestic Owner 2 =

Entity 1 =

Entity 2 =

Entity 3 =

Year 1 =

Year 2 =

Country A =

Country B =

Country C =

In re: PLR-108529-07

Dear :

This is in response to a letter dated February 6, 2007, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2T(g)(2)(i) ("Elections"), and an annual certification under Treas. Reg. § 1.1503-2T(g)(2)(vi)(B) ("Annual Certification"), for Years 1 and 2 with respect to certain dual consolidated losses. Additional information was submitted in a letter dated August 8, 2007. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

During Years 1 and 2, Domestic Owner 1, a domestic corporation that was a member of Taxpayer's consolidated group, owned 100 percent of the interest in Entity 1, an entity organized under the laws of Country A. Such interest was a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). During Years 1 and 2, Entity 1 had activities in Country A that constituted a foreign branch ("Foreign Branch 1") within the meaning of Treas. Reg. § 1.367(a)-6T(g). Foreign Branch 1 was a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(i)(A).

Dual consolidated losses were attributable to Foreign Branch 1 during Years 1 and 2. No dual consolidated losses were attributable to the interest in Entity 1 during such years. Taxpayer's tax department inadvertently failed to file the proper Elections for the Year 1 and Year 2 dual consolidated losses attributable to Foreign Branch 1.

During Years 1 and 2, Domestic Owner 2, a domestic corporation that was a member of Taxpayer's consolidated group, had activities in Country B that constituted a foreign branch ("Foreign Branch 2") within the meaning of Treas. Reg. § 1.367(a)-6T(g). Foreign Branch 2 was a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(i)(A).

A dual consolidated loss was attributable to Foreign Branch 2 during Year 2. Taxpayer's tax department inadvertently failed to file an Election for such dual consolidated loss.

During Years 1 and 2, Taxpayer owned 100 percent of Entity 2, an entity organized under the laws of Country C. During Years 1 and 2, the interest in Entity 2 was a hybrid entity separate unit as described in §1.1503-2(c)(4).

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A dual consolidated loss was attributable to Taxpayer's interest in Entity 2 during Year 1. Taxpayer's tax department inadvertently failed to file an Election for such dual consolidated loss, and also failed to file an Annual Certification for such loss with its Year 2 return.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the required Elections and the Annual Certification. Treas. Reg. § 301.9100-3(b)(1)(i).

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, the Elections and the Annual Certification are regulatory elections as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time to make these filings, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Elections with respect to the Year 1 and Year 2 dual consolidated losses attributable to Foreign Branch 1, the Year 2 dual consolidated loss attributable to Foreign Branch 2, and the Year 1 dual consolidated loss attributable to the interest in Entity 2. In addition, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file an Annual Certification in Year 2 with respect to the Year 1 dual consolidated loss attributable to the interest in Entity 2.

Taxpayer is not required to file Annual Certifications with respect to dual consolidated losses attributable to Foreign Branch 1 or Foreign Branch 2 because they are separate

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units described in Treas. Reg. § 1.1503-2(c)(3)(i)(A) and, therefore, an extension of time is not necessary in this regard. Treas. Reg. § 1.1503-2(g)(2)(vi)(C).

For certain taxable years prior to Year 1, Taxpayer failed to file Elections and Annual Certifications with respect to dual consolidated losses. Taxpayer did not request relief for such filings, however, because the period for assessment and collection of tax for such years has expired under the rules of I.R.C. § 6501, and no portion of such dual consolidated losses was included in a net operating loss that carried forward to a taxable year for which such period has not expired.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the Elections and Annual Certification.

A copy of this ruling letter should be associated with the Elections and Annual Certification that are the subject of this ruling.

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent. No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to Taxpayer's authorized representatives.

Sincerely,

John J. Merrick
Special Counsel
Office of Associate Chief Counsel
(International)

Enclosure:
Copy for 6110 purposes